

Reconsideration is requested of the rejection of various claims under 35 USC 102/103 over various references.

The references have generic disclosures of classes of fungicidally active compounds. They have broad disclosures of possible uses. They even disclose the instant active material.

However, what they do not have is a specific disclosure of the utility of this compound for preserving wood against fungal attack, for example the floor board of your house's wooden outside deck.

Utility for such a purpose is different from fungi infestations in plants, man or animals.

In the field of plant protection, specific plants are stricken with only a few specific species of fungi (see for example page 13 of Schaub) which are pathogenic to these plants, in addition mostly only during specific times of their growth.

As a result of the infection, the plants die or the possible harvest hopes are blighted. Therefore, a specific plant protecting fungicide is used at or shortly before the time of infestation.

By contrast therewith, a microbicide for the protection

of industrial (technical) materials must at the same time combat a wide range of highly different species of fungi, bacteriae, algae, etc. However, these microbicides may not act on the technical materials or change their quality or property. Moreover, a microbicide for the protection of technical materials should be active over the whole time the materials are used. That means these microbicides should be active and stable over a very long time (in contrast to plant protecting fungicides). Microbicides for the protection of technical materials should be colorless and may not discolor the materials to be protected. Further, the microbicides should (for a long time) be resistant to exposure and may not be washed out or migrate out of the materials to be protected.

These properties are not, or in absolutely different ways, required of plant (or man) protecting fungicides.

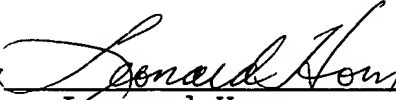
Accordingly, a reference describing fungicidally active compounds and their use to protect plants, man or animals, therefore, does not suggest or teach an artisan in the field of industrial material protection to use these compounds to protect technical materials.

Schaub '439 at col. 4, lines 28 ff does not disclose that which is herein claimed.

Favorable action is solicited.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, D.C. 20231 on 5/9/94.

SPRUNG HORN KRAMER & WOODS

By 
Date 5/9/94